

**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for preliminary plat approval of a 59-lot single-family attached residential subdivision on approximately 4.39 acres zoned R-43 in unincorporated Clark County, Washington.

FINAL ORDER
Parkview Heights Subdivision
PLD2004-00045; SEP2004-00073;
ARC2004-00030

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for preliminary plat and related approvals for the Parkview Heights Subdivision (PLD2004-00045; SEP2004-00073; ARC2004-00030) – a 59-lot single-family attached residential subdivision on approximately 4.39 acres zoned R-43.

II. Introduction to the Property and Application:

Applicant..... DKRB Properties
PO Box 10624
Portland, Or 97296

Contact..... Olson Engineering, Inc.
Attn: Vanessa Rake
1111 Broadway
Vancouver, WA 98660

Owner	Seventh Day Adventists	Stanley S. Straub
	1698 SE Tech Center	PO Box 5080
	Vancouver, WA 98683	Vancouver, WA 98668

Property Legal Description: Parcel Numbers 145536 (TL 6/4), 145540 (TL 10/4), 145537 (TL 7/4) located in the SW ¼ of Section 2, Township 2 North, Range 1 East of the Willamette Meridian.

Applicable Laws RCW 58.17 and Clark County Code (CCC) Chapters 15.12 (Fire Code), 40.220.020 (Residential Districts), 40.260.230 (Townhouse Standards), 40.350 (Transportation), 40.350.020 (Concurrency), 40.370.010(D) (Sewer), 40.370.020(D) (Water), 40.380 (Storm Water and Erosion Control), 40.500 (Process), 40.540.040 (Land Divisions), 40.570.080 (SEPA), 40.570.080(C)(3)(k) (Historic & Cultural Preservation), 40.610 (Impact Fees).

This application seeks preliminary plat and related approvals, including a road modification, for a 59-Lot single-family attached residential subdivision on approximately 4.39 acres zoned R-43 with a UH (Urban High Density Residential) comprehensive plan designation. The property consists of three tax lots (parcel numbers 145536, 145540 and 145537) located east of NE 13th Avenue, south of NE 88th Street, west of NE 18th

Avenue and north of NE 86th Street. Surrounding parcels on all four sides are zoned R-43 with a UH (Urban High Density) Comprehensive Plan designation (Exs. 3 & 4). These parcels are developed with single-family homes; additionally, the parcel north of the site has professional offices including a dentist. There are no wetlands on the site; however, there is a wetland on the property to the south, and a portion of its 50-foot buffer extends onto this site (Ex. 6, tab 12 & Ex. 30). The property is within the Vancouver urban growth area, the Vancouver School District, Fire Protection District 6, the Hazel Dell Traffic Impact Fee Subarea, Parks Improvement District 8, and the territory of the Hazel Dell Neighborhood Association. Water and sewer are provided by Clark Public Utilities and the Hazel Dell Sewer District, respectively.

The record contains a revised preliminary plat and related plans that are the subject of this decision (Exs. 17 & 6). Current access to the parcel is, and will remain, directly off of NE 88th Street, via a new public street: NE 87th Loop. The proposal requests a modification to the minimum internal street width of 36 feet, instead of the standard 46 feet of pavement. Engineering staff reviewed the request and recommended approval of this road modification (Ex. 25). Soils at the site are not well suited for infiltration (Ex. 7), so stormwater will be collected and piped to an on-site detention facility located in Tract A (Ex. 17). County staff reviewed the preliminary stormwater plan and found that compliance with the County's stormwater requirements was feasible (Ex. 25). The encroachment of the wetland buffer from the adjacent property to the south interferes with the stormwater tract and necessitates a wetland permit (Ex. 30).

The application includes a revised preliminary plat (Ex. 17), a narrative (Ex. 6, tab 4), preliminary erosion control and landscaping plans (Ex. 6, 7), a soils report and preliminary stormwater plan (Ex. 7), notes from the October 23, 2003 preapplication conference (Ex. 6, tab 2), traffic study (Ex. 6, tab 8) and revised circulation plan (Ex. 18), sewer and water provider letters (Ex. 6, tab 10), an abbreviated wetland permit application (Ex. 30), and a SEPA checklist (Ex. 6, tab 9). Included in the record are comments from the Fire Marshal (Ex. 12) and an archaeological predetermination (Ex. 22).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this subdivision was held on October 23, 2003 (Ex. 6, tab 2), but a fully complete Type III application was not submitted until June 19, 2004 (Ex. 9). From this, the vesting date for the development is June 19, 2004. Notice of the Type III application and a September 9, 2004 public hearing on the application was mailed to property owners within 300 feet and to the Hazel Dell Neighborhood Association on July 7, 2004 (Exs. 10, 11 & 13). At the applicant's request (Ex. 14), the hearing date was rescheduled to October 7, 2004, and new notice was mailed to near-by property owners (Exs. 15, 16 & 19). Notices were posted on the site and in the vicinity on September 21, 2004 (Ex. 21), and notice of the new October 7, 2004 hearing date and the SEPA Determination of Nonsignificance (DNS) were published in the Columbian on September 22, 2004 (Ex. 21). The County received no appeals and only one comment (Ex. 27) on the SEPA Determination by the submission deadline of October 6, 2004. The single comment was from the Washington Department of Ecology, and did not warrant a response. Staff issued a comprehensive report on the project dated September 22, 2004 (Ex. 23) recommending approval of the proposed subdivision with

conditions. One written comment expressing several concerns related to traffic and pedestrian safety was received from a near-by neighbor Marshall Waldman (Ex. 24).

At the commencement of the October 7th hearing, the Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Richard Daviau, County planning staff on the project, and Paul Knox, engineering staff, provided verbal summaries of the project, the staff report and the various agency and departmental comments in the record. The applicant's representative, Kurt Stonex, of Olson Engineering, described the project, explained details and responded to questions from the Examiner and the public. Mr. Stonex had two minor corrections to the staff report, and otherwise concurred with staff's report and recommendation. Also testifying at the hearing in a neutral or opponent capacity were Marshall Waldman, a near-by neighbor, and Curtis Achziger, the Vice President of the Hazel Dell Neighborhood Association, who subsequently submitted a letter detailing his comments (Ex. 29). Mr. Achziger also requested that the record be left open because he was unable to obtain many of the applicant's materials prior to the hearing. The applicant consented to the open-record extension, and at the conclusion of the October 7th hearing, the Examiner ordered the following schedule:

- October 15, 2004 – public comments on all issues
- October 22, 2004 – the applicant's final rebuttal (no new evidence)

The record closed in this matter on October 22, 2004.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding prior to the close of the record have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings.

A. Public Testimony: The following issues were raised by parties to the proceeding, either neutral or opposed to the application, and the Examiner adopts the following findings with regard to each:

1. **Marshall Waldman:** Mr. Waldman, an accountant who operates his office across NE 88th Street from the site, testified at the hearing and submitted a letter (Ex. 24) raising the following issues:

a) **Sight Distance:** Mr. Waldman asserts that adequate sight distance along NE 88th Street near the intersection with NE 15th Avenue is not adequate. The applicant's traffic study (Ex. 6, tab 8, p 3), however, analyzed the issue and found there was adequate sight distance at this intersection. County Engineering staff reviewed the applicant's traffic study, and found that it met the County's requirements (Ex. 25, p 3)

and recommended Condition A-5, which assures that the County's sight distance requirements will be met.

b) Traffic Signal: Mr. Waldman asks whether a traffic signal will be installed at the intersection of NE 88th Street and NE 15th Avenue. Again, the applicant's traffic engineer addressed the issue in the traffic study (Ex. 6, tab 8), and Engineering staff found that the issue was properly addressed (Ex. 23, p 6). Unless warranted by objective traffic volume criteria, traffic signals can actually make an intersection less safe. The requisite traffic signal warrants were not met at this particular intersection, and therefore, no signal is recommended.

c) Pedestrian Safety: Mr. Waldman states that the current street system is not safe for pedestrians, especially school children. To the extent there is an existing deficiency in pedestrian and safety facilities, that problem cannot be attributed to this development, and state law prohibits the County from requiring this development to remedy such a preexisting problem. RCW 82.02.020. However, there does not appear to be any credible objective or quantitative data to support Mr. Waldman's belief that there is a current pedestrian safety problem. Moreover, this development is responsible for, and will construct, frontage improvements along NE 88th Street, including pedestrian facilities.

d) Construction Traffic: Mr. Waldman expressed the fear that construction would interfere with his accounting business and conflict with client traffic during tax season. The applicant testified, however, and County staff confirmed, that site improvements will likely be constructed during the summer of 2005 – after the conclusion of tax season. In any event, construction traffic is not an issue related to the subdivision approval criteria, but is regulated by the County outside of the land use and subdivision process. Consequently, the Examiner has little control over the issue.

e) Parking: Mr. Waldman expressed the concern that residential and guest parking demand for the development would be so great as to expand beyond the development's borders into the surrounding community, possibly across NE 88th Street into the parking lot for his business. County staff confirmed at the hearing that this development is providing 2 on-site (off-street) parking spaces per home, which exceeds the one space per unit required by the code. As such, this proposal meets the County's requirements, and as a practical matter is unlikely to impact parking availability outside the neighborhood or in Mr. Waldman's parking lot.

2. Curtis Achziger: Mr. Achziger, Vice President of the NE Hazel Dell Neighborhood Association, testified and submitted a letter from Ed McMillan, a Professional Engineer, (Ex. 29) raising several issues. The applicant's engineers responded verbally at the hearing and in writing (Exs. 31 & 32).

a) Availability of plans: Mr. Achziger complained that many elements of the proposal were not available to the public prior to the hearing, e.g., the engineering report (Ex. 25), revised plat (Ex. 17), grading plan, landscape plans and design elevations showing percentage of garage coverage. The Examiner cured any procedural problem by keeping open the record and directing staff to facilitate public access to the application materials. Mr. Achziger has not renewed his objection. Some of the plans requested, however, are not required as part of a subdivision application, e.g. grading plans, landscape plans and building elevations. The requirements attendant to these

issues are clear, objective, primarily quantitative and do not involve any discretion. Consequently, state law and the County Code do not require a public hearing for their review.

b) Wisdom of rolled curbs in combination with curb-tight sidewalks: Mr. Achziger noted that the plans appear to call for rolled curbs (instead of vertical curbs) and sidewalks immediately adjacent to the curb (curb-tight), with no intervening planting strip. Mr. Achziger testified that this combination promotes on-street parked cars to actually park up on the sidewalk. The Examiner agrees with this point. The County Code gives a developer the option of vertical or rolled curbs and curb-tight sidewalks. This configuration, especially in combination with narrow streets, promotes parking on the sidewalks. Cars parking partially or wholly on the sidewalk block the sidewalks and creates a pedestrian safety hazard. However, as written, the code allows this combination, and the Board of Commissioners should consider whether, as a matter of policy, it wants to allow developers to select this combination without any measures that ensure the protection of sidewalk areas. In this particular case, approval for the narrower internal streets comes with conditions that prohibit on-street parking. See Condition A-7. As things stand, however, the Examiner lacks the authority to address the situation, but he would advise the developer to use vertical curbs to prevent the problem.

c) Adequacy of NE 88th Street: Under this issue, Mr. McMillan argues that the County's planned improvements for NE 88th Street are not fully complete because all of the required right-of-way has been acquired (Ex. 29). County concurrency staff review the proposal and applied the County's circulation model. Staff concluded that all affected intersections would operate at acceptable levels of service (Ex. 23, pp 5-7). According to staff and the applicant (Ex. 32), the concurrency analysis was properly conducted and its results show that no additional mitigation is required to achieve acceptable levels of service. The applicant's analysis and recommendation are credible and reliable evidence for the conclusion that NE 88th Street is adequate to accommodate the trips this development will generate.

d) Erosion control: Mr. McMillan states that erosion control could be a problem for this development, given the slopes and soil conditions. County staff concluded (Ex. 25, p 6), and the Examiner agrees, that this development is subject to, and shall comply with, the County's erosion control ordinance. See Conditions C-5 & D-8 through D-11. Compliance shall be demonstrated by the submission of erosion control plans. The County's review of the erosion control plans shall be controlled by clear and objective standards that do not entail the exercise of discretion. Therefore, the County's subsequent review of those plans and its determination of compliance with the Erosion Control Ordinance are not subject to land use proceedings.

e) Downstream flooding: Mr. McMillan notes that neither the applicant nor staff address downstream stormwater capacity. Mr. McMillan suggests that a downstream analysis be performed. The applicant responds that it has satisfied the code's subdivision approval requirements by demonstrating that post-development rates of stormwater discharge will not exceed pre-development rates (Ex. 31). The Examiner agrees and pursuant to CCC 40.380.040(B) requires an analysis to verify there is adequate downstream stormwater capacity. See Condition A-16.

f) Roof & yard drainage from Lots 31-46: Mr. McMillan notes that the proposal does not address how increased runoff from roofs and yards in Lots 31 through 46 will be handled and recommends a condition requiring this runoff to be included in the final stormwater plan. The applicant states that its stormwater plan already accounts for all direct and indirect drainage from the site, including Lots 31-46 (Ex. 31). The Examiner finds that the stormwater plan adequately addresses all drainage as do Conditions A-12 through A-16 and D-15 reflect this requirement.

B. The Approval Criteria: The following issues were addressed by County staff members, in their reports or by agency comments on the application, and the Examiner adopts the following findings with regard to each:

LAND USE:

Finding 1 – Density: The applicant has submitted a revised plat (Ex. 17) that identifies a gross area of 4.39 acres with an allowed density range of 20 to 43 units per acre, which is acceptable for the R-43 Zoning District. Pursuant to CCC 40.220.020 (C2)(c)(1), minimum densities are calculated based on the site minus any public road right-of-way, required landscaping, and land designated by covenant as wetland buffer. The proposed development contains 1.18 acres of public right-of-way, 0.19 acres of required landscaping, and 0.07 acres of wetland buffer that will be protected by a covenant running with the land (Ex. 30). Based on 2.95 acres of net site area, 59 units are needed to meet minimum density requirements. The proposed development complies with density requirements by proposing 59 residential units. See Condition A-3.

Finding 2 – Townhouse Standards: Pursuant to CCC 40.260.230 – Table 1, townhouse lots shall be at least 1,000 sf, with a minimum width of 18 feet, and a minimum depth of 50 feet. The Examiner finds that all lots in the proposed plat comply with these standards. The applicant has submitted a site plan that identifies at least two parking spaces per unit; this exceeds the required one parking space per unit. Pursuant to townhouse standards, no more than 40% of the total front façade of each unit may be garage door area. The applicant has submitted an 8½ x 11 photo plan (not to scale) that does not clearly demonstrate compliance with this requirement. The applicant shall demonstrate compliance with this requirement prior to final plat approval. See Condition A-1.

Finding 3 – Setbacks: The following setbacks apply to the proposed plat:

- Eighteen foot front setback for garages (or other similar vehicular shelter)
- Ten foot front setback for other buildings
- Ten foot street side setback
- Zero-foot side attached setback
- Five foot standard side and rear setback for all other setbacks in the plat

The applicant has submitted a site plan that can comply with setback requirements. A note on the plat is warranted that identifies setback requirements. See Condition A-3 and Plat Note C-1.

Finding 4 – Landscape Buffers: Pursuant to CCC Table 18.402A-1, L2 Landscape Standards are required along the site's frontage of NE 88th Street. The applicant has

submitted a plan that identifies compliance with the tree component of the L2 standards, but does not identify compliance with the shrub component. The applicant shall submit a plan that identifies compliance with the shrub component of the L2 standards along the site's frontage of NE 88th Street. See Condition A-2.

Finding 5 - State Platting Standards (RCW 58.17) : With conditions of approval, the Examiner finds the proposed subdivision will make appropriate provisions for the public health, safety, and general welfare. Continued connection of the existing and future residences to public water and sewer, as well as treatment of any future increase of stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact fees will also be paid at the time of building permits as this development's proportionate share of the costs of school, park and transportation infrastructure and services. See Condition B-4 and Plat Note C-5. The applicant has also provided information about safe walking conditions for students who walk to school and school bus service for the area (Ex. 26).

ARCHEOLOGICAL:

Finding 6: The proposal is located within a high probability area for containing cultural resources, and an archaeological predetermination was completed for the site by the County Archaeologist (Ex. 22). Historic items were found but were not considered significant. Therefore, no further archaeologically is recommended. If any cultural resources are discovered in the course of development construction, the Office of Archaeology and Historic Preservation in Olympia and Heritage Trust of Clark County should be notified. Failure to comply with these State requirements may constitute a Class C felony, subject to imprisonment and/or fines. See Condition C-2.

WETLANDS:

Finding 7: There are no wetlands on the site. However, the 50-foot Type D buffer associated with the wetland south of the site encroaches into the water quality facility in Tract A (Ex. 17). Therefore, the applicant seeks a wetland permit to reduce the buffer in one area and compensate for it in another (Ex. 30). Staff concurred with the proposed wetland buffer boundary mapped on the preliminary plat in the application and expressed its approval of the reduction and compensation proposal at the hearing. See Conditions A-19 and D-2.

TRANSPORTATION CONCURRENCY:

Finding 8 – Concurrency: The applicant submitted a traffic study for this proposal in accordance with CCC 40.350.020B and is required to meet the standards established in CCC 41.350.020G for corridors and intersections of regional significance (Ex. 6, tab 8). The County's TraffixTM model includes the intersections of regional significance in the area and the County's model was used to evaluate concurrency compliance. County concurrency staff reviewed the proposed subdivision consisting of 59 attached townhouse units. The applicant's traffic study estimated the weekday AM peak hour trip generation at 26 new trips and the PM peak hour trip generation at 30 trips.

Site Access - Level of Service (LOS) standards are not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur at the site access onto NE 88th Street. The access appears to maintain acceptable LOS.

Operating LOS on Corridors - The proposed development was subject to concurrency modeling. The modeling results indicate that the operating levels comply with travel speed and delay standards. The applicant shall reimburse the County for costs incurred in running the concurrency model. See condition A-4.

Intersection Operating LOS - The proposed development was subject to concurrency analysis for intersections of regional significance. Capacity analyses were also conducted for impacts to public roadway intersections adjacent to the proposed development site. The study reports acceptable operating levels for the NE 25th Avenue/NE 88th Street intersection.

Based on the foregoing findings, the Examiner finds that the proposed development complies with the Concurrency Ordinance CCC 40.350.020.

Finding 9 – Safety: Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis
- turn lane warrant analysis
- accident analysis
- any other issues associated with highway safety

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 12.05.230. This ordinance states that “nothing in this chapter shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Chapter 12.41 CCC or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development: provided that the developer may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.”

Traffic Signal Warrants - Signal warrants are not met at any of the subject intersections analyzed in the applicant's traffic study.

Turn Lane Warrants - Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The applicant's traffic study analyzed the roadways in the local vicinity of the site to determine if turn lane warrants are met. Turn lane warrants were not met at any of the unsignalized intersections analyzed in the applicant's traffic study; therefore, mitigation is not required.

Historical Accident Situation - The applicant's traffic study analyzed the accident history at the regionally significant intersections; however, all of the historical accident rates at these intersections are below 1.0 accidents per million entering vehicles. Therefore, mitigation by the applicant is not required.

Traffic Controls During Construction - During site development activities, the public transportation system (roadways, sidewalks, bicycle lanes, etc.) may be temporarily impacted. In order to minimize these impacts and coordinate work occurring in the

public right-of-way, the applicant shall prepare and obtain approval of a Traffic Control Plan. See Condition B-2.

The applicant shall maintain all existing signs within the public right of way within the limits of the development's construction until the County accepts the public roads. The developer shall install and maintain temporary signs where the development's signing and striping plan shows new or modified warning or regulatory signs. New or modified temporary signing shall be installed when any connection is made to the public road network. The developer shall remove the temporary signs immediately after the County installs the permanent signing and striping.

TRANSPORTATION:

County engineering staff reviewed the applicant's transportation plan (Ex. 6, tab 8) and circulation plan (Ex. 18) and provided proposed findings and conditions (Ex. 25). Engineering staff concluded that, with conditions, the applicant's transportation plan meets the County's requirements. The Examiner agrees and adopts as his own staff's proposed findings (Ex. 25, pp 1-5) and incorporates them herein by this reference. See Conditions A-5 through A-11. The applicant has requested a road modification to allow a 36-foot right-of-way width for internal streets instead of the required 46-foot right-of-way width. To merit approval of a road modification, an applicant must demonstrate that any one of the four conditions listed in CCC 40.550.010 exists. Staff also analyzed this request, and the Examiner specifically adopts staff's analysis and proposed findings related to the road modification (Ex. 25, pp 3-5) and approves the requested road modification.

STORMWATER:

County engineering staff reviewed the applicant's stormwater plan (Exs. 7 & 8) and provided proposed findings and conditions (Ex. 25). Engineering staff concluded that, with conditions, the applicant's stormwater plan meets the County's requirements. The Examiner agrees and adopts as his own staff's proposed findings (Ex. 25, pp 6-7) and incorporates them herein by this reference. See Conditions A-12 through A-16.

FIRE PROTECTION:

Finding 10: The site is in Clark County Fire District 6, and the Fire Marshal's Office reviewed this application and provided conditions of approval (Ex. 12). The development of this site shall comply with the Fire Marshall's comments and conditions and additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition E-5.

- a. Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. See Condition B-1.
- b. Fire flow in the amount of 2,250 gallons per minute supplied for two hours duration is required for this application. The applicant has submitted a utility review from the water purveyor indicating that the required fire flow is not available at the site (Ex. 6, tab 10). Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. See Condition A-17.

c. Fire hydrants are required for this application and the indicated number and spacing is inadequate. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 300 feet and such that no lot or parcel is in excess of 300 feet from a fire hydrant as measured along approved fire apparatus access roads. Hydrants shall be installed per Fire Marshal standards with locations approved by the Fire District Chief. See Condition A-17.

d. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access. The applicant shall ensure that fire apparatus access roads maintain an unobstructed width of not less than 20 feet, an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. Parallel parking is prohibited on streets that are less than 24 feet wide and shall be posted "No Parking". See Condition A-18.

e. Approved fire sprinkler and fire alarm systems are required at the time of construction for buildings in this application. Such systems require separate review and approval issued by the Fire Marshal office. See Condition B-3.

HEALTH DEPARTMENT:

Finding 11: Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county, e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy. The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. See Condition D-3.

UTILITIES:

Finding 12: The applicant has submitted utility reviews from the Clark Public Utilities and the Hazel Dell Sewer District indicating that public water and sewer is available to the subject site (Ex. 6, tab 10). A copy of the final acceptance letter from the sewer and water purveyor should be submitted to the Health Department with the final plat mylar. The applicant needs to comply with all requirements of the purveyor." See Condition D-4.

IMPACT FEES:

Finding 13: The site is located in Vancouver School District, Parks Improvement District 8 and the Hazel Dell Traffic Impact Fee District. All new homes built on all lots in this development will impose new service demands on the local schools, park facilities and transportation system. Therefore, all new homes in this development (36 of them, which excludes the existing home on the site) shall be subject to a School Impact Fee (SIF), a Park Impact Fee (PIF) and a Traffic Impact Fee (TIF) to help pay the cost of providing new system infrastructure to serve the new demand. Pursuant to CCC chapter 40.610, each of the new single-family dwellings in this subdivision shall be subject to the following impact fees, payable at the time building permits are issued:

- Park Impact Fees: \$1,315 (acquisition: \$994 & development: \$321)
- Traffic Impact Fees: \$811.90
- School Impact Fees: \$1,450

The impact fees for dwelling units on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following this expiration date shall be recalculated using the then-current regulations and fees schedules. See Condition B-4 and plat note C-6.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on September 22, 2004 (Exs. 20 & 23). No timely appeals and only one comment (Ex. 27) were received by the comment and appeal deadline of October 6, 2004. The single comment from the Department of Ecology does not warrant a change to the original SEPA determination, and it is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the applicant's proposal, the revised preliminary plat (Ex. 17) and the plans and reports associated with this proposal (Exs. 6, 7, 8 & 30). This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A. Conditions that shall be met prior to Final Plat approval, or which may with County approval be bonded for and performed prior to building permit issuance according to CCC 40.350.030(C)(4)(i) & (j) and 40.380.040(N):

- A-1 The developer shall submit elevation plans that clearly demonstrate that garage doors account for no more than 40% of the total front facade of each unit. See Finding 2.
- A-2 The developer shall submit a plan that explains how it will comply with the shrub component of the L2 standards along the site's frontage of NE 88th Street. See Finding 4.
- A-3 The development of this plat shall comply with all density and dimensional requirements of the R-43 zoning district as developed under the County's townhouse provisions in CCC 40.260.230 – Table 1. See Finding 1.

- A-4 The developer shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,500. The reimbursement shall be made within 60 days of issuance of the decision with evidence of payment presented to staff at Clark County Public Works. See Finding 8.
- A-5 In order to allow turning movements for residents and service vehicles the developer shall provide corner radii on the proposed private "T" road at the west corners of Lots 9 and 47. See Transportation Finding 2 (Ex. 25).
- A-6 In order to clearly delineate the private road from the public street, the proposed roadway connection shall be made with a commercial style concrete approach, as shown on Clark County Standard Drawing F17. This will provide a clear separation between the public and private portions of the road, provide pedestrian access across the private road in a sidewalk, and minimize maintenance operations on the public roadway. See Transportation Finding 3 (Ex. 25).
- A-7 Parking shall be prohibited on the 20-foot wide portion of the proposed private road, as required by CCC 40.350.030(B)(10)(b)(2). the developer shall be responsible for installing "No Parking" signs along the private road. See Transportation Finding 3 (25).
- A-8 The developer shall dedicate sufficient right-of-way and construct frontage improvements on NE 88th Street consistent with the most current design for the County NE 88th Street project, unless the developer and Clark County Public Works execute a deferral agreement in accordance with procedures of CCC 40.350.030(B)(5)(c). See Transportation Finding 3 (Ex. 25).
- A-9 Proposed intersections and driveways shall be constructed in accordance with the sight distance requirements of CCC 40.350.030(B)(8). See Transportation Finding 5 (Ex. 25).
- A-10 The developer shall be responsible for construction of sidewalks along NE 88th Street and the street frontage of the stormwater tract. See Transportation Finding 6 (Ex. 25).
- A-11 The developer shall provide a 37-foot wide right-of-way and shall provide the full width of pavement, curb and sidewalk for an urban residential loop road (Standard Drawing #15) for all on-site roads, except at the entrance onto NE 88th Street, which shall be classified and constructed to the standards of a local residential access road (Standard Drawing #14), in accordance with CCC 40.350.030(B)(4). Street signs, street lights and other utilities installed behind the sidewalk shall be located within a public easement named for that purpose which will ensure access and maintenance rights to public agencies in a manner similar to the public right-of-way. That portion of additional right-of-way shown on the preliminary plat needs to accommodate the design centerline alignment of the NE 88th Street Transportation Improvement Project (CRP 330222) shall be dedicated to the public in return for the right-of-way the county will forego within the interior of the site. See Transportation Finding 7 (Ex. 25).

- A-12 According to CCC 40.380.040(C)(1)(h), all lots in the urban area must be designated to provide positive drainage from the bottom of footings to an approved stormwater system. See Stormwater Finding 3 (Ex. 25).
- A-13 The proposed stormwater management facilities shall be privately owned and maintained. Pursuant to CCC 40.380.040(H)(3)(b), the County may inspect privately maintained facilities for compliance with the County's Stormwater and Erosion Control Ordinance, and take code enforcement action if the facilities are not being properly operated or maintained. Easements or a covenant acceptable to the county shall be provided to the county for purposes of inspection of privately maintained facilities. See Stormwater Finding 3 (Ex. 25).
- A-14 According to CCC 40.380.040(C)(1)(g), this development shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. See Stormwater Finding 3 (Ex. 25).
- A-15 Any constructed facilities within a wetland or wetland buffer area shall comply with the requirements of CCC chapter 40.450, the Wetland Protection Ordinance. See Stormwater Finding 3 (Ex. 25).
- A-16 The developer's stormwater report shall include an off-site analysis consistent with CCC 40.380.040(B)(2) that includes information on the capacity of the downstream system receiving stormwater. If required, the report shall be included in the Technical Information Report (TIR).
- A-17 The developer shall provide documentation from the water purveyor that the required fire flow is available at the site or obtain approval of an alternative from the Fire Marshal Office. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational. The developer shall provide fire hydrants so that the maximum spacing between hydrants is 300 feet and no lot or parcel is farther than 300 feet from a fire hydrant as measured along approved fire apparatus access roads. Hydrants shall be installed per Fire Marshal standards with locations approved by the Fire District Chief. See Fire Protection Finding 10b & 10c.
- A-18 The developer shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. Parallel parking is prohibited on streets with a pavement width narrower than 24 feet, which shall also be posted "No Parking." See Fire Protection Finding 10d.
- A-19 The Developer shall obtain final wetland permit approval to implement its wetland buffer reduction and compensation proposal associated with the Type D buffer that intrudes into Tract A (Ex. 30). This permit will affect Lots 44, 45 & 46.

B. The following conditions shall be met prior to issuance of Building Permits:

- B-1 Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.

- B-2 Prior to issuance of any building or grading permits for the development site, the developer shall obtain written approval from Clark County Department of Public Works of the developer's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system. See Finding 9.
- B-3 Approved fire sprinkler and fire alarm systems are required at the time of construction for buildings in this application. Such systems require separate review and approval issued by the Fire Marshal office.
- B-4 Impact Fees: Pursuant to CCC chapter 40.610, all new single-family dwelling units in this development (57 of them, which provides credit for the 2 existing homes on the site) shall pay the following single-family impact fees at the time building permits are issued:
1. \$1,315 PIF (consisting of \$994 for acquisition, and \$321 for development) per new single-family dwelling in Park District 8;
 2. \$1,450 SIF per new single-family dwelling in the Vancouver School District; and
 3. \$811.90 TIF per new single-family dwelling in Hazel Dell Traffic Impact fee district.

The impact fees for dwelling units on this plat shall be fixed for a period of 3 years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following this expiration date shall be recalculated using the then-current regulations and fees schedules." See Impact Fees Finding 13 and Plat Note C-6.

C. The following notes shall be placed on the final plat:

- C-1 Setbacks: "The following setbacks apply to the proposed plat (see Finding 3):
- 18 foot front setback for garages (or other similar vehicular shelter)
 - 10 foot front setback for other buildings
 - 10 foot street side setback
 - Zero-foot side attached setback
 - 5 foot standard side and rear setback for all other setbacks in the plat
- C-2 Archaeological: "If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- C-3 Private Roads: "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this plat. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or adjoining lot owners to include hard surface paving and is accepted by the County for public ownership and maintenance."

- C-4 Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
- C-5 Erosion Control: "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- C-6 Impact Fees: "In accordance with CCC chapter 40.610, School, Park and Traffic Impact Fees shall be paid for all new dwelling units constructed in this development. Each new single-family dwelling shall be subject to the following impact fees at the time of building permit issuance: \$1,450 SIF per new single-family dwelling in the Vancouver School District, \$1,315 PIF (consisting of \$994 for acquisition and \$321 for development) per new single-family dwelling in Park District 8), and \$811.90 TIF per new single-family dwelling in Hazel Dell Traffic Impact fee district. The impact fees for dwelling units on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following this expiration date shall be recalculated using the then-current regulations and fees schedule."

D. Standard Conditions that shall be met:

- D-1 Land Division: Within 5 years of the effective date of this decision, the developer shall submit to the Planning Director a fully complete final plat consistent with CCC 40.540.070 and the requirements of this preliminary plat approval. Otherwise, this preliminary plat approval shall be null and void.
- D-2 Landscaping Plans: Prior to recording the final plat, the developer shall submit a copy of the approved landscape plan(s) for any public right-of-way (if applicable) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.
- D-3 Water and Septic Systems: Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Well/Septic Abandonment Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county, e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy. See Health Department Finding 11.
- D-4 Abandonment of well and septic system, connection to public systems: Any existing wells or septic systems shall be decommissioned by a suitably qualified professional. The developer shall submit an acceptable "Health Department Final Approval Letter" to the county at the time specified in the evaluation letter. The homes in this development shall be connected to public water and sewer

services and the developer shall comply with all requirements of the sewer and water purveyors. See Utilities Finding 12.

- D-5 Fire Protection: Building construction occurring subsequent to this application shall comply with the Fire Marshall's comments (Ex. 12) and the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Fire Protection Finding 1.
- D-6 Fire Protection: All driveways shall comply with the Transportation Standards and the requirements of the Fire Marshal. The Fire Marshal's requirements shall take precedence when they are more stringent than the Transportation Standards. See Transportation Finding 5.
- D-7 Pre-Construction Conference: Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- D-8 Erosion Control: Prior to construction, the developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.380.
- D-9 Erosion Control: A copy of the approved erosion control plan shall be submitted to the Chief Building Official prior to final plat recording.
- D-10 Erosion Control: Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- D-11 Erosion Control: Erosion control facilities shall not be removed without County approval.
- D-12 Excavation and Grading: Excavation/grading shall be performed in compliance with Appendix Chapter 33 of the Uniform Building Code (UBC).
- D-13 Excavation and Grading: Site excavation/grading shall be accomplished, and drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.
- D-14 Transportation: Prior to construction, the developer shall submit and obtain County approval of final transportation design plans in conformance with CCC chapter 40.350.
- D-15 Stormwater: Prior to construction, the developer shall submit and obtain County approval of a final stormwater design plan in conformance with CCC chapter 40.380.

Date of Decision: November, ____, 2004.

By: _____
Daniel Kearns,
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

Notice of Appeal Rights

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 40.510.030(H)(3)(b); and
5. A check in the amount of \$279.00 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.